REMARKS

Reconsideration and further prosecution of the above-identified application are respectfully requested in view of the amendments and discussion that follows. Claims 1-32 are pending in the prior application.

Rejections Under 35 U.S.C. §103(a)

Claims 1-32 have been rejected under 35 U.S.C. §103(a) as being obvious over U.S. Pat. No. 5,999,964 to Kelly in view of U.S. Pat. No. 5,999,964 to Lennig et al., U.S. Pat. No. 6,029,124 to Gillick et al. and U.S. Pat. No. 5,475,733 to Eisdorfer et al.

It is noted first, that U.S. Pat. No. 5,999,964 lists Murakata as the first inventor, not Kelly. It is believed in this regard that the Examiner actually means to refer to U.S. Pat. No. 5,999,965 to Kelly instead of U.S. Pat. No. 5,999,964 to Murakata et al. If this is not the case, then it is respectfully requested that the Examiner withdraw the Office Action and issue a new Office Action to correct the record.

With regard to the rejection, the Examiner asserts that "Kelly (5999964) teaches an ACD . . . call distribution based upon language", but "Kelly (5999964) does not go into the specifics of the call routing based upon language" (Office Action of 10/4/04, page 2). However, Kelly clearly fails to provide any teaching of any method steps or apparatus for sampling an initial greeting provided by a customer.

2

With regard to Lennig et al., the Examiner asserts that "Lennig et al (5479488) teaches a call distributor comprising detecting a call (col. 4 line 13 - col. 5 line 14), sampling an audio greeting of the call (col. 6 lines 19-43), using lexemes based on language, location and business name based upon the input from the user after prompting (col. 5 lines 53-61 -> the user's first response to a prompt is considered to be the 'initial' or first response of the user)" (Office Action of 10/4/04, page 2).

It may be noted in this regard, that the Examiner is clearly mistaken in his analysis. For example, independent claims 1, 7, 13, 19 and 25 are all limited to determination of language based upon "an initial greeting provided by the customer during an initial audio portion of the call".

Webster's Third New International Dictionary defines "greeting" as "a salutation at meeting or a compliment from one absent". In addition, the specification uses the term "greeting" in a manner that is entirely consistent with the dictionary definition. For example, "a Spanish speaking person might answer the phone by saying 'BUENO" (specification, page 3, lines 16-17).

In addition, an initial greeting is generally unsolicited. As demonstrated above, an initial greeting is the traditional "hello" that is provided by a callee when he answers the telephone.

In addition, the salutary nature of the initial greeting generally does not change even if a second party says "hello" before the first party. An initial greeting on a telephone functions simply to signal each party's presence to the other party during a call.

In contrast, Lennig et al. refers to "a bilingual greeting message to prompt the caller for the preferred

3

language" (Lennig et al., col. 6, lines 2-3). However, the Lennig et al. greeting is provided by a voice processing unit 14A, not a customer, and therefore clearly does not meet the limitations of the claims.

The prompting message is clearly not a greeting because the prompt is a command that instructs the caller to make a language selection. A response to a command for a language selection is also clearly not a greeting.

On another level, the prompt is provided to "let the caller know that the service is automated, which may help to set the caller in the right frame of mind" (Lennig et al., col. 6, lines 5-6). Letting the caller know that the service is automated discourages any greeting on the part of the caller because the caller knows that he is talking to a machine. The selection of a language in response to a prompt clearly does not meet any sort of dictionary definition of "greeting". It is certainly not salutary and certainly not a compliment from one absent.

In summary, Lennig et al. merely teaches of the use of a machine prompt and of the recognition of a prompted response. It is structurally different than the claimed invention because Lennig et al. adds another step to the process of call handling. The claimed invention is different because language selection is accomplished in a manner that is transparent to the customer rather than through the additional impersonal command of a machine. Nowhere within Lennig et al is there any teaching or suggestion of the analysis of an initial greeting provided by the customer.

Similarly, Gillick et al. is drawn merely to speech recognition. Nowhere within Gillick et al. is there any teaching or suggestion of any analysis of an audio portion

4

of any initial greeting provided by the customer or routing based upon a language determined by such analysis.

Similarly, Eisendorfer et al. is directed to determining a language of text. Nowhere within Eisendorfer et al. is there any teaching or suggestion of any analysis of an audio portion of any initial greeting provided by the customer or routing based upon a language determined by such analysis.

In general, the combination (of Kelly, Lennig et al., Gillick et al. and Eisendorfer et al.) clearly fails to provide any teaching of any method step of (or apparatus for) sampling "an initial greeting provided by the customer". Kelly is merely directed to call routing. Lennig et al. is directed to language selection by a caller in response to a prompt. Gillick et al. is merely directed to language identification without any practical application outside of the usefulness of speech recognition. Eisendorfer et al. teaches that language selection should be based upon text. Nowhere within the combination of Kelly, Lennig et al., Gillick et al. and Eisendorfer et al. is there any teaching or suggestion that an initial greeting offered by a customer could or should be used to route a call.
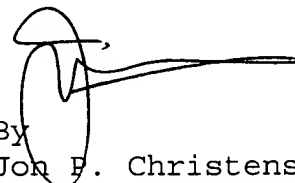
Since there is no teaching or suggestion of the use of a greeting to route a call, the combination fails to teach each and every claim limitation. Since the combination fails to teach each and every claim limitation, the rejection is believed to be improper and should be withdrawn.

Closing Remarks

Allowance of claims 1-32, as now presented, is believed to be in order and such action is earnestly solicited. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920. A duplicate copy of this sheet(s) is enclosed.

Respectfully submitted,
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6